IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 24 OF 2005

SHRI RANJIT SATARDEKAR, PANAJI GOA. ....Appellants

Versus

SMT.CLOTILDES FERNANDES AND 2 ORS., ...Respondents

Mr. S.K. Kakodkar, Senior Advocate with Mr. A. B. D'Sa, advocate for the appellant.
Mr. M. S. Usgaokar, Senior Advocate with Mr. A. D.Bhobe, advocate for the respondent no.1.
Mr. Y. V. Nadkarni, advocate for the respondent no.2.

Coram:- R. M. LODHA, J.

Date:- 31st August, 2005

P.C.

Heard Mr. S. K. Kakodkar, the learned Senior Counsel for the appellant. I perused the Order dated 21st April, 2005 which is impugned in the present Appeal From Order. The contention of the learned Senior Counsel is that before the trial Court proceeds with the auction it ought to follow the procedure prescribed under Articles 2126 and 2129.

Mr. M. S. Usgaokar, learned Senior Counsel for respondent no.1 invited my attention to the order passed by the Division Bench on 22nd August, 2005 in Writ Petition no.1 of 2005. Writ Petition no. 1 of 2005 arises from inventory proceedings out of which the present Appeal from Order arises. In that Writ Petition the petitioners had challenged the constitutionality of inventory laws, particularly Article 2126 and other Articles of the Portuguese Civil Code and few Articles of the Portuguese Civil Procedure Code. By the Order dated 22nd August, 2005 Rule was issued therein. However, the interim relief was refused and the trial Court was directed to proceed with the auction. In the backdrop of the order passed by the Division Bench on 22nd August, 2005 directing the trial

Court to proceed with the auction, I am satisfied that the present Appeal From Order does not deserve to be entertained and there is no justifiable ground to stay the auction, when the Division Bench has already directed the trial Court to proceed with the auction. Needless to say that while proceeding with the auction, the trial Court shall follow the relevant provisions of the Portuguese Civil Code and all other relevant laws.

With the aforesaid clarification the Appeal From Order is dismissed in limine.

R. M. LODHA, J.